

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE
APPLICATION BY DAKOTA RANGE I,
LLC AND DAKOTA RANGE II, LLC
FOR A PERMIT OF A WIND ENERGY
FACILITY IN GRANT COUNTY AND
CODINGTON COUNTY, SOUTH
DAKOTA, FOR THE DAKOTA RANGE
WIND PROJECT**

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**Kristi Mogen Post Hearing Brief
Requesting Denial of the Permit
Application

EL18-003**

I, Kristi Mogen, Intervenor, hereby submit this brief requesting the Commission deny Dakota Range I, LLC and Dakota Range II, LLC Application for a Permit of an Industrial Wind Energy Facility in Codington and Grant Counties in South Dakota.

INTRODUCTION

Dakota Range I, LLC and Dakota Range II, LLC is seeking a permit from the Commission to build a wind farm in Codington and Grant County, SD. As the applicant, Dakota Range I, LLC and Dakota Range II, LLC has the burden of proof to establish its proposed project satisfies the provisions of SDCL 49-41B-22. Intervenor's do not have the burden of proof to show the proposed project does not satisfy SDCL 49-41B-22. Neither does the PUC Staff. Therefore, if there remains a question as to whether the proposed project complies with SDCL 49-41B-22, the permit application must be denied. As shown below, Dakota Range I, LLC and Dakota Range II, LLC has not satisfied its burden. Therefore, I respectfully request the Commission deny Dakota Range I, LLC and Dakota Range II, LLC's permit application.

ARGUMENT

1. Filed Prematurely, not having enough information to complete the requirements of an application.
 - "so construction would feasibly happen in the spring of 2020 and commissioning probably 2021 based on Excel's time line." Mauersberger page 77 lines 12-14 This application should be denied, there is plenty of time for Dakota Range re apply with all the information, including Vesta's manuals due out in November 2018, needed for safe siting's to protect health and safety of people who live within the project and provide proof of Excel's involvement and have Excel

present to answer applicable questions concerning economics of decommissioning and questions about construction.

- In reference to ADL technology, “it’s newer technology and we wanted to use the technology that was tried and true. In addition, I think there’s only one of those systems deployed, and there’s also – because it was a newer technology and uncertain how reliable it is, there were liability concerns as well” Mauersberger page 68 lines 22-25 page 69 lines 1-2. Is Dakota Range not concerned with new technology of 4.2 MW turbines and the liability.
- 4.2 MW Vesta’s are so new, manuals have not been written yet. “That manual is not going to be released until November. We have confirmed that, it does not exist yet” Smith page 384 lines 12-14 Dakota Range has admitted the information for setbacks was based on county ordinances and cultural sensitivity. The Dakota Range application should be denied until the complete information is available. What if the manual requires drastic changes? **How can the PUC make a decision on safety information that is not even published?**
- Several references were made during testimony that Excel owns the turbines, would be constructing the project and become the eventual owner and be responsible for decommissioning. Dakota Range tried to pass the buck but did not provide proof that Excel would be the purchaser or present Excel to answer questions about setbacks/siting and decommissioning.
- Exhibit A25 still contains errors; 1) missing non-participator Lonnie Quale, did he receive notice? 2) Ruth Meyer Trust is shown as a participator, on the other exhibits she is a non- participator. This property is surrounded by turbines, how does this effect the setback questions, flicker, and sound requirements for non-participators? 3) Is David Loren a participator or not? Exhibit A25 shows him as a non-participator while other maps list him as a participator. Why the flip participators and non-participators in the middle of the hearing, how does that effect all the new information given on 6-14-18. **How can the PUC make a decision on unreliable information?**
- There are still missing receptors on the sound and flicker maps. How can the flicker and sound maps be trusted? Missing receptors participators land near turbine 31, there are two mailboxes and two separate places of residents, 1 receptor listed. Non-participator just across the road from the project boundary near turbine near turbines 2,3 and 4, two mailboxes and two separate places of residents, 1 receptor. Also missing receptor for Lonnie Quale. Honestly there maybe more, I found these while on a Sunday drive June 17th, 2018 looking for wild flowers. I only drove my favorite roads to find the flowers. **The PUC needs to deny this application, there is no way to evaluate the safety and siting issues from incorrect and unreliable information.**
- On June 14, Dakota Range submitted updated (still incorrect) exhibit A25 demonstrating that over night it had the capability to enlarge a map. Also testified that the flicker and sound maps were corrected adding the two identified missing responders. Yet Dakota Range did not provide an enlarged map to correspond

with the exhibit, even knowing that placement of responder for 1698 and the amount of flicker hours is in question. Why did Dakota Range only provide part of the corrected information? Why did Dakota Range choose not to enlarge the map and show the placement of the receptors?

2. Mark Mauersberger / Dakota Range not forthcoming in answering the PUC staff, commissioners, or interveners questions, what else is being held back that might prove to be issues with public health, safety and welfare, comply with applicable laws, or is a threat to economics or environment of the inhabitants.

- PUC staff Motion to Compel for the terms of the easement, *page 15 lines 18-25, page 16 lines 1-25, page 17 lines 1-19*
- Exhibit A23 clearly shows a date of May 10, 2018 yet Dakota Range did not provide the document to PUC staff until 6/14/2018. On top of that the exhibit is presented without full documentation of where it is from, who wrote it and is in direct conflict of testimony provided by Mauersberger page 71 line 4-7 “this information is not available to the applicants...”
- Mauersberger “so south of our location is the Crowned Ridge Project owned by Next Era.....” Page 81 lines 20-25 then on page 93 lines 9-20 Mauersberger admits that Dakota Range III and IV would be part of the cumulative effect. He failed to give a full and complete answer to Commissioner Hanson, as Mauersberger has held public meetings on Dakota Range III and IV. Dakota Range has also filed with the Secretary of State Dakota Range V, why did Mauersberger not mention that in the cumulative effects question/answer?
- Mauersberger “I believe the lay lengths is approximately 220 feet” page 83, line 7-8 answer to Commissioner Hanson “What’s the rotor diameter on one of the turbines that you’re pursuing?” page 83 line 5-6 The correct answer is 446feet, page 54 s1 Thurber table 9-3. This is a huge difference when referring to three rotor diameters leading people to believe that 660 feet (page 83 line 11) verses 1,338 feet needed to meet the Grant County Ordinance of 3 rotor diameters. If Mauersberger did not know this, has Dakota Range proven it meets the county requirements?
- Stated by Commissioner Nelson page 383 lines 3-6 “It was clear that what was submitted to us was not that. It didn’t have a cover on it, but in reviewing the 600 pages, it is clear that it was not a turbine operation manual”. Why knowingly submit incorrect information?

3. Dakota Range presented and used questionable information

- MaRous states “They were addressed by the appraiser, and there were no comments made about the pending wind farm as having any impact” page 179 lines 24-25 and page

180 line 1. It is doubtful that MaRous saw the Kaaz appraisal as the appraisal is the property of either Kaaz or her bank. How reliable is MaRous testimony?

- Mauersberger used outdated tax information while presenting at the PUC public hearing. Misinformation to the public, could lead voters to vote in new school buildings and additions only to be left holding a financial burden.
- It was clearly pointed out by Diane Redlin during the PUC public hearing that the Punished Women Lake association did not write the letter of support that was presented.
- The Grant County Minutes Mogen exhibit clarification exhibit 1 page 6, not letter of support was not sent.
- Mauersberger “it is my understanding there was, I believe, a good neighbor agreement offered.” Page 97 line 21-22 Kaaz “No. I have never been offered anything. I’ve never seen what you’re talking about as far as an offer of any kind”
- Roberts submitted flicker and seizure information from the Epilepsy Foundation website and not peer reviewed studies.
- Pardo “I don’t know the answer to that question” “Does Cabling need to be stripped of its insulation in order to be recycled”? page 53 line 8-10 If a professional is in the decommissioning business vs the financing business the answer would be very clear. My husband knew the answer and he isn’t the one who recycles in our home.
- Pardo used theoretical numbers and has never been involved in the actual decommissioning. Page 57 lines 15-25. Why not have a study/report completed by someone who has done the job?
- Pardo did not do the math on the actual cost without salvage and it is unclear if landfill fees and the cost to the environment for larger landfills to dispose of the non-recyclable blades. Pages 63 lines 24-24 page 64 line 1 Pardo “ the decommissioning study that we have prepared has not looked into the recycling of facilities and capabilities in North America.

4.It is concerning that the Dakota Range project Kirschman “What it may have is more of a potential impact to the species that may use that pollinator habitat” page 117 lines 18-21. Pollinators provide the economic base for many farmers, not just honey producers.

5.The decommissioning exhibit A21 is stunningly risky to landowners, county taxpayers as well as South Dakota coffers. Not only does it ask the state to allow 10 years before funding decommissioning it is vague in ownership and responsibility. It is likely that another less expensive and cleaner energy source becomes available, the subsidies run out and this project will become an eyesore as well as problematic to the environment and public health and safety.